UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JAMES LASTRA,

                    Plaintiff,   16-cv-3088 (JGK)

          - against -   MEMORANDUM OPINION &
                                                  ORDER
CITY OF NEW YORK, ET AL.,

                    Defendants.

JOHN G. KOELTL, District Judge:

The plaintiff's counsel, Scott A. Korenbaum, has filed objections pursuant to Rule 72(a) of the Federal Rules of Civil Procedure to an Order of Magistrate Judge Lehrburger dated March 19, 2018, which set up a schedule for Korenbaum to file a "supplemental declaration" in support of his application to withdraw as plaintiff's counsel that would set forth "the specific bases for his motion to withdraw." Dkt. No. 91. Korenbaum argues that the Rules of Professional Conduct preclude him from disclosing communications with his client. The plaintiff has filed a letter opposing Korenbaum's application, which is attached to this memorandum opinion and order.

Korenbaum's objections are overruled. There is surely more detail that Korenbaum could provide as to the reason for his request for withdrawal. While Korenbaum refers to "hurdles that have developed," Dkt. No. 90, at 1, he provides no inkling as to what those hurdles are, even by reference to the specific Rules

of Professional Conduct or well-established caselaw. Indeed, it would be unusual if there were not overlapping reasons for withdrawal, some of which would not involve the disclosure of attorney-client communications. It is the rare civil case where an attorney is required to continue to represent a client.

Therefore, the Magistrate Judge's Order is not clearly erroneous or contrary to law. The Court is confident that the Magistrate Judge will be able to deal with the positions of the parties in a reasonable and sensitive way. The Court appreciates that the schedule set by the Magistrate Judge will need to be adjusted because of the delay occasioned by these objections. The Court leaves further scheduling to the Magistrate Judge.

Korenbaum also asked that the withdrawal motion be heard by another Magistrate Judge so that Magistrate Judge Lehrburger would not hear the matters in the disqualification motion and then continue to preside over the case. There is no basis for transfer at this time. Disqualification may be raised if matters addressed in the withdrawal motion provide a basis for disqualification. Making a motion for withdrawal should not be the basis for disqualification or to transfer the motion.

The objections are overruled.

SO ORDERED.

Dated: New York, New York
          March 26, 2018

                                      John G. Koeltl
                            United States District Judge

James Lastra
2241 Lafayette Ave
Bronx , New   York
10473
Phone   718 822-0728
March 23, 2018

Magistrate Judge Robert W. Lehrburger
United States District Court S.D.N.Y
500 Pearl Street, Room 1960
Courtroom 18D

Honorable District Judge Koeltl
United States District Court S.D.N.Y.
United States District Judge
500 Pearl Street

<u>**Case No. 16 cv 3088**</u>
Re: Plaintiff's preliminary reply letter opposing withdrawal of counsel

Dear Judge Lehrburger and Judge Koeltl,

Plaintiff only received via email Mr. Korenbaum's letter to Judge Koeltl dated March 22nd , 2018 this Friday March 23^{rd,} ^{2018} although the email states that it was transmitted yesterday.

Plaintiff submits this preliminary letter to advise the Court of his strong opposition to Scott Korenbaum's vague and ambiguous motion to withdraw and also for an extension of time to reply said motion to withdraw in accordance with Magistrate Judge Lehrburger's <u>March 19th</u> ^{2018} order; (Plaintiff ordered to reply to counsel's ordered submission of a supplemental declaration for said withdrawal motion)

<u>Plaintiff requests an additional 14 days</u> applied to the pending determinations of the Court (Magistrate Judge Lehrburger and District Judge Koeltl).   Upon reading Mr. Korenbaum's letter today plaintiff was quite perplexed for the relief   Mr. Korenbaum requested to remove Judge Lehrburger in the event that he is not granted a favorable determination to withdraw after two adjournments - which specifically encompassed the scheduling of depositions to support plaintiff's causes of action.

Because Mr. Korenbaum's motion to withdraw is vague and ambiguous it makes

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it in effect impractical to be able to reply to it in any substantive manner - which seems to be what is also indicated by Magistrate Judge Lehrburger's pending Order.

Although this is only a preliminary letter herein, Plaintiff respectfully prays the Court would consider dismissing said motion to withdraw with prejudice and instead issue an order for the compliance of the discovery extension for the scheduling of depositions - I believe the extension was granted for that purpose by Magistrate Lehrburger.

In consideration of the above request, Plaintiff respectfully points out to the Court that the aforementioned extension for discovery/ scheduling of depositions was granted by Magistrate Lehburger subsequent to a motion to dismiss for lack of prosecution docket number 83   11/9/2017 - which plaintiff was never made aware of by counsel.
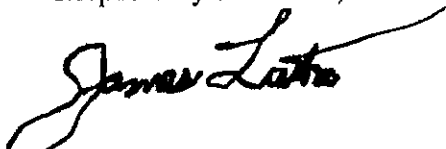
While plaintiff appreciates Mr. Korenbaum's desire to adhere to the professional rules of conduct it is understood that there are voluminous Rules of professional conduct to adhere to.   It seems somewhat disingenuous to cite one rule of professional conduct to gain a favorable determination to withdraw when all the rules should be applied holistically for the most favorable interest of the client.

Plaintiff respectfully reiterates that to make an application to withdraw at this point would most assuredly cause irreversible harm.

For the above stated reasons Plaintiff prays the Court consider his requests within this letter - I would like to move forward with depositions.

However in the event that Mr. Korenbaum's letter application is granted Plaintiff respectfully requests the Court would schedule a Court conference so that Plaintiff would be able to have full access to be heard and submit any additional documentation in support of his position.

Respectfully submitted,

Cc: Scott Korenbaum Esq.; Evan Jaffe via fax/ email

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